

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

September 25, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Hawaii

Forfeiture of General Lease No. S-4307, Geo' Co., Inc., Lessee, Waiakea, South
Hilo, Hawaii, Tax Map Key: 3rd/2-2-58:03.

PURPOSE:

Forfeiture of General Lease No. S-4307, Geo' Co., Inc., Lessee.

LEGAL REFERENCE:

Section 171-39, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Lot 3, Hilo Industrial Development, Pohaku Street
Section situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: 3rd/2-2-
58:03, as shown on the attached map labeled Exhibit A.

AREA:

12,114 square feet, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

General industrial purposes.

TERM OF LEASE:

40 years, commencing on June 23, 1970 and expiring on June 22, 2010.

ANNUAL RENTAL:

\$8,400.00 due in quarterly payments of \$2,100.00.

REMARKS:

Pursuant to the authority granted the Chairperson by the Board of Land and Natural Resources at its meeting of January 11, 1980 and the breach provision contained in General Lease S-4307, Geo' Co., Inc., Lessee, was served a Notice of Default by certified mail dated July 1, 2009 for:

X **Failure to keep lease rental payments current**

___ Failure to post required performance bond

___ Failure to post required fire insurance policy

___ Failure to post required liability insurance policy

___ Other: _____

Said notice, accepted by the Lessee on July 6, 2009, offered the Lessee a sixty-day cure period to correct the default. This cure period expired on September 4, 2009. As of September 8, 2009, this breach has not been cured.

As of September 11, 2009, the current status of all lease compliance items is as follows:

RENT: The Lessee has a rental delinquency of \$2,100.00 for the time period from June 23, 2009 to September 22, 2009.

INSURANCE: The Lessee has posted the required liability and fire insurance policies.

PERFORMANCE BOND:

The bond requirement was waived by the Board at its meeting of October 26, 1984, under agenda item F-2.

In the past five years, default notices have been sent to General Lease No. S-4307 on six separate occasions as indicated in the following table.

TYPE OF DEFAULT	DATE NOTICE SENT	DATE DEFAULT CURED
RENT (\$2100)	6/03/09	7/07/09
FIRE INSURANCE	7/10/09	8/07/09
RENT (\$2100)	1/03/06	1/23/06
RENT (\$2100)	10/03/05	11/10/05
RENT (\$2100)	6/27/05	8/26/05
RENT (\$4200)	4/21/05	4/29/05 – 6/15/05

On all occasions, the defaults were cured prior to the Lessee going to the Land Board for cancellation.

Staff contacted lessee on September 9, 2009 and was informed that a check for the balance due would be delivered to the Hawaii District Office the following day. As of September 11, 2009 no payment has been received.

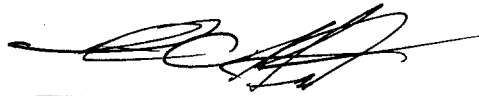
Staff is therefore recommending the Board cancel General Lease No. S-4307. However, Should the Board consider granting the Lessee time to cure the default, and in the event the Lessee cures the default in rent, staff recommends that the Board re-impose the performance bond requirement in an amount equal to two times the annual rent.

RECOMMENDATION: That the Board:

1. Authorize the cancellation of General Lease No. S-4307 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under General Lease No. S-4307 to be applied to any past due amounts;
3. Terminate the lease and all rights of Lessee and all obligations of the Lessor effective as of September 25, 2009, provided that any and all obligations of the Lessee which have accrued up to said effective date or which are stated in the lease to survive termination shall endure past such termination date until duly fulfilled, and further provided that Lessor reserves all other rights and claims allowed by law;
4. Re-impose the performance bond requirement in an amount equal to two times the annual rent in the event the Lessee cures the default; and

5. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under General Lease No. S-4307 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,



Gordon C. Heit
Land Agent

KEM

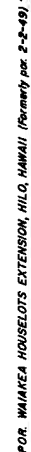
APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



Dropped parcels: 11, 38, 12,
34.



NOTED: 2000-01-14
 100% of the
 contents were received.

**FOR REAL PROPERTY TAXATION PURPOSES
SUBJECT TO CHANGE**

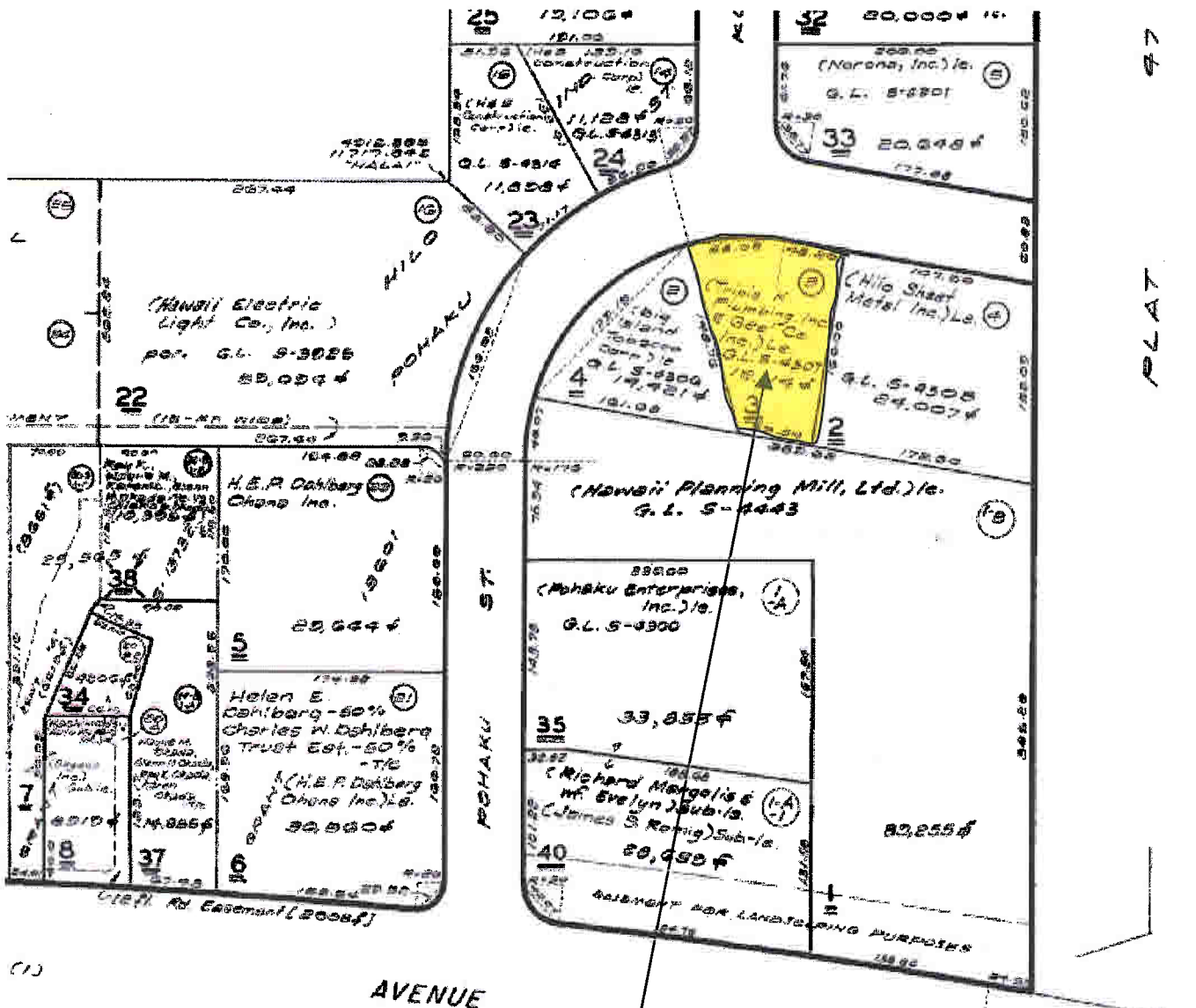
DEPARTMENT OF TAXATION
PROPERTY ASSESSMENT DIVISION
TAX MAPS BRANCH
STATE OF HAWAII
TAX MAP

THIRD TAXATION DIVISION	
ZONE	SEC. PLAT
2	2 58

SCALE: 1" = 100 FT.

EXHIBIT A

TMK: 3RD/2-2-58:03



SUBJECT PROPERTY